

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation adopts amendments to Chapter 601, "Application for License," and Chapter 630, "Nonoperator's Identification," Iowa Administrative Code.

The REAL ID Act of 2005, 49 U.S.C. § 30301 note, as further defined in 6 CFR Part 37, provides that states must meet certain requirements in the issuance, reissuance, and renewal of driver's licenses and nonoperator's identification cards used to access federal facilities and federally regulated aircraft. These requirements include specific application and documentation requirements set forth at 6 CFR 37.11, including but not limited to documentation of identity, date of birth, social security number, address of principal residence, and evidence of lawful status in the United States. These requirements also include specific verification of documents and information provided, as well as mandatory facial image capture for all applicants for REAL ID-compliant driver's licenses and nonoperator's identification cards. These amendments confirm that all applicants for REAL ID-compliant driver's licenses and nonoperator's identification cards must meet all lawful requirements for an Iowa driver's license or nonoperator's identification card, as well as all federal requirements for a REAL ID-compliant document, and are necessary to establish the state of Iowa's compliance with the REAL ID Act of 2005.

For good cause and pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation prior to adoption of these amendments pursuant to Iowa Code section 17A.4(1) are impracticable and contrary to the public interest as it will preclude implementation before January 1, 2010, thereby jeopardizing the state of Iowa's material compliance with the REAL ID Act of 2005 and Iowans' access to federal facilities and federally regulated aircraft.

The REAL ID Act of 2005 originally provided that federal agencies were precluded from accepting a state-issued driver's license or nonoperator's identification card for official purposes beginning May 11, 2008, unless the issuing state met the requirements of the Act by that date. A change to 6 CFR Part 37 allowed states to obtain an extension of that deadline until December 31, 2009, which the state of Iowa has obtained. According to 6 CFR 37.51(b), states must be in material compliance with the requirements of the REAL ID Act of 2005 by January 1, 2010, to receive a further extension to May 10, 2011. Pursuant to 6 CFR 37.65, driver's licenses and nonoperator's identification cards issued by a state that has obtained such an exception will be acceptable by federal agencies for official purposes until the end of the applicable enrollment periods, as set forth above. If, however, a state is not in material compliance by January 1, 2010, such licenses and cards will not be acceptable for official federal purposes until the state establishes full compliance, and then only with compliant credentials. The amendments help the state of Iowa establish proper procedure for issuance of REAL ID-compliant driver's licenses and nonoperator's identification cards, and are necessary to establish material compliance by the January 1, 2010, deadline.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments be made effective December 21, 2009. As discussed above, immediate implementation is needed to help the state of Iowa establish proper procedure for issuance of REAL ID-compliant driver's licenses and nonoperator's identification cards, and are necessary to establish material compliance by the January 1, 2010, deadline.

The Department shall not grant any waivers under the provisions of these amendments since the amendments are needed to comply with the REAL ID Act of 2005, 49 U.S.C. § 30301 note, as further defined in 6 CFR Part 37.

These amendments are also published herein under Notice of Intended Action as **ARC 8342B** to allow for public comment.

These amendments shall become effective December 21, 2009.

These amendments are intended to implement Iowa Code chapter 321, the REAL ID Act of 2005 (49 U.S.C. § 30301 note), and 6 CFR Part 37.

The following amendments are adopted.

ITEM 1. Adopt the following new rule 761—601.7(321):

761—601.7(321) REAL ID driver's license. A person who seeks a driver's license that is compliant with the REAL ID Act of 2005, 49 U.S.C. § 30301 note, as further defined in 6 CFR Part 37 ("REAL ID driver's license"), must meet and comply with all lawful requirements for an Iowa driver's license, and must also meet and comply with all application and documentation requirements set forth at 6 CFR Part 37, including but not limited to documentation of identity, date of birth, social security number, address of principal residence, and evidence of lawful status in the United States. Documents and information provided to fulfill REAL ID requirements must be verified as required in 6 CFR 37.13. An applicant for a REAL ID driver's license is subject to a mandatory facial image capture that meets the requirements of 6 CFR 37.11(a). A REAL ID driver's license may not be issued, reissued, or renewed except as permitted in 6 CFR Part 37 and may not be issued, reissued, or renewed by any procedure, in any circumstance, to any person, or for any term prohibited under 6 CFR Part 37. The information on the front of any REAL ID driver's license must include all information and markings required by 6 CFR 37.17. Nothing in this rule requires a person to obtain a REAL ID driver's license.

This rule is intended to implement Iowa Code chapter 321, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 2. Adopt the following new subrule 630.2(7):

630.2(7) A person who seeks a nonoperator's identification card that is compliant with the REAL ID Act of 2005, 49 U.S.C. § 30301 note, as further defined in 6 CFR Part 37 ("REAL ID nonoperator's identification card"), must meet and comply with all lawful requirements for an Iowa nonoperator's identification card, and must also meet and comply with all application and documentation requirements set forth at 6 CFR Part 37, including but not limited to documentation of identity, date of birth, social security number, address of principal residence, and evidence of lawful status in the United States. Documents and information provided to fulfill REAL ID requirements must be verified as required in 6 CFR 37.13. An applicant for a REAL ID nonoperator's identification card is subject to a mandatory facial image capture that meets the requirements of 6 CFR 37.11(a). A REAL ID nonoperator's identification card may not be issued, reissued, or renewed except as permitted in 6 CFR Part 37 and may not be issued, reissued, or renewed by any procedure, in any circumstance, to any person, or for any term prohibited under 6 CFR Part 37. The information on the front of any REAL ID nonoperator's identification card must include all information and markings required by 6 CFR 37.17. Nothing in this subrule requires a person to obtain a REAL ID nonoperator's identification card.

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